

SUBCOMMITTEE NO. 2

Agenda

Alan Lowenthal, Chair
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1:00 p.m. or upon adjournment of session
Room 113

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Resources—Environmental Protection—Energy

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3940 State Water Resources Control Board

Background. The State Water Resources Control Board (SWRCB), in conjunction with nine semi-autonomous regional boards, regulates water quality in the state. The regional boards—which are funded by the state board and are under the state board's oversight—implement water quality programs in accordance with policies, plans, and standards developed by the state board.

The board carries out its water quality responsibilities by: (1) establishing wastewater discharge policies and standards; (2) implementing programs to ensure that the waters of the state are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment, water reclamation, and storm drainage facilities. Waste discharge permits are issued and enforced mainly by the regional boards, although the state board issues some permits and initiates enforcement actions when deemed necessary.

The state board also administers water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes.

Governor's Budget. The Governor's Budget proposes \$657 million to support the SWRCB in the budget year. This proposal is approximately \$112 million less than current year expenditure levels, mainly due to a reduction in bond funding. General Fund appropriation is expected to stay nearly the same.

Summary of Expenditures				
<i>(dollars in thousands)</i>	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Water Quality	\$ 927,734	\$ 823,408	-\$104,326	-11.3
Water Rights	13,642	11,137	-2,505	-18.4
Administration	18,950	18,890	-60	-0.3
<i>less distributed administration</i>	<i>-18,950</i>	<i>-18,890</i>	<i>60</i>	<i>-0.3</i>
Total	\$ 941,376	\$ 834,545	-\$106,831	-11.4
Funding Source				
General Fund	\$ 39,091	\$ 39,102	\$ 11	0
Special Funds	362,715	362,980	265	0.1
Bond Funds	367,641	254,966	-112,675	-30.6
<i>Budget Act Total</i>	<i>769,447</i>	<i>657,048</i>	<i>-112,399</i>	<i>-14.6</i>
Federal Trust Fund	128,877	128,578	-299	-0.2
Reimbursements	9,999	9,999	0	0
State Water Quality Control Fund	23,309	29,495	6,186	26.5
State Water Pollution Control Revolving Fund	-2,682	-2,682	0	0
Petroleum Underground Storage Tank Financing Account	12,426	12,107	-319	-2.6
Total	\$ 941,376	\$ 834,545	-\$106,831	-11.4

Vote-Only Items

1. Brownfields Funding Initiative

Background. The Porter-Cologne Water Quality Control Act mandates that the State Water Board and the nine regional boards ensure that polluted groundwater is restored for beneficial uses, including drinking water. The Water Code requires that any person who has discharged waste to pay for the cleanup or abate the effects. This provides the Regional Water boards with the power to demand an investigation and cleanup, as well as recovery of costs incurred in overseeing the work.

Brownfields are lands where productive use of the property is hindered by environmental contamination or perceived contamination of the buildings, equipment, and surrounding land and water. Brownfields are known to contain volatile organic compounds, chromium, solvents, acids and other hazardous substances. Brownfields can leak contaminants into the groundwater. Brownfields are particularly relevant to environmental justice because the businesses and industries that closed their doors and contaminated the land and groundwater tend to impact low-income communities disproportionately.

Currently, in California, there are 1,716 sites undergoing cleanup and a backlog of another 1,700 awaiting oversight. The State Water Resources Control Board has 60 positions working on the Spills, Leaks, Investigation, and Cleanup Program for brownfields.

Governor's Budget. The Governor's Budget proposes \$3,122,000 from the State Water Quality Control Fund for 25 positions to increase oversight of the Spills, Leaks, Investigation, and Cleanup Program sites including underutilized properties and converting backlogged sites to cost recovery. These new positions are expected to address 400-600 site cleanups.

The funding for this program comes from property owners who pay the state to work on supervising the cleanup of privately owned brownfields.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

2. Regulating Confined Animal Facilities

Background. Confined animal facilities include dairies, swine facilities, and poultry facilities, among others. There are many of these facilities in the Central Valley. For example, over 1,500 dairies are located in the Central Valley, and they pose significant treats to surface water quality. A single dairy with 1,000 cattle can annually produce as much waste as a city with 20,000 residents. Most of the waste from these facilities is untreated.

The Central Valley Regional Water Quality Control Board has directed its staff to develop General Order Waste Discharge Requirements (WDR) to handle permitting of confined animal facilities. Implementation of the new General Order WDR will provide a unified permitting approach for the existing dairies, and provide more oversight and enforcement than the past waiver programs.

In addition, the United States Environmental Protection Agency has issued revisions to the proposed federal Concentrated Animal Feeding Operations regulations. These revisions will include confined animal facilities, such as swine facilities, to the list that already included dairies.

Governor's Budget. The Governor's Budget proposes \$1,053,000 from the Waste Discharge Permit Funds for seven redirected permanent positions to handle water discharge permitting of confined animal facilities.

Of this amount, \$300,000 would be used to fund contracts for studies to provide scientific data on the impact of animal waste and associated waste chemicals on ground and surface water from confined animal facilities.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

3. Sanitary Sewer Overflow Reduction Program

Background. Dilapidated infrastructure and lack of sanitary sewer system management by local agencies is causing numerous sanitary sewer overflows throughout the state. These sanitary sewer overflows contain high levels of pathogenic organisms and toxic pollutants. These spills can pollute surface and ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. Between 2000 and 2002, there were 240 beach closures due to such spills.

In California, water quality protection is provided through the issuance of waste discharge requirements. These requirements contain limitations on discharges to ensure that the beneficial uses of the State's waters are protected. In May 2006, the State Water Board adopted Resolution No. 2004-0080 (Order). The Order requires public agencies that own a sanitary sewer system to develop sanitary sewer management plans.

The Sanitary Sewer Overflow Reduction Program (SSORP) is an administratively created program without budgetary authority. SSORP would work with local agencies to collect data on spills, and analyze that data for possible ways to prevent or limit spills. Also, SSORP will work on outreach to local agencies and on sanitary sewer management plan implementation.

Governor's Budget. The Governor's Budget proposes \$384,000 from the Waste Discharge Permit Fund for three redirected permanent positions to administer the Sanitary Sewer Overflow Reduction Program.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

4. Underground Storage Tank Cleanup Fund Augmentation

Background. The Underground Storage Tank Cleanup Fund (USTCF) is intended to distribute funds for cleanup of environmental contamination caused by leaks from underground storage tanks. Funds for the USTCF are derived from a fee on gasoline, set currently at \$0.014/gallon, which generates approximately \$220 million per year. The program is scheduled to sunset on January 1, 2011.

The USTCF acts like an insurance program for underground storage tank owners who pay a fee on each gallon of gasoline they store. The USTCF provides up to \$1.5 million in reimbursements per occurrence to petroleum underground storage tank owners and operators.

These funds are used to pay for the investigation and cleanup of unauthorized petroleum releases, and for liability to third parties for damages caused by such releases. Since 1992, USTCF has received about 18,000 claims, of which 10,000 have been funded for \$1.9 billion. There are an additional 4,700 claims waiting to be funded.

Orphan sites are sites for which the owner of the property cannot be located or cannot pay for the cleanup, such as businesses that have gone bankrupt.

Governor's Budget. The Governor's Budget proposes \$12.9 million in one-time funds from the Underground Storage Tank Cleanup Fund for underground storage tank cleanup costs. Of this amount, \$2.9 million would be used for the Orphan Site Cleanup Program.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

5. Leviathan Mine Pollution Abatement Fund

Background. The Leviathan Mine is a superfund site owned by the State of California. In 1984, the state purchased Leviathan Mine to initiate work to abate pollution caused by historic mining for sulfur at the site. At the time of the land purchase, the site was believed to have very little contamination that could be addressed with approximately a \$4 million investment. Today, cleanup cost for the site exceeds \$100 million.

Mining at the Leviathan Mine resulted in exposure of certain minerals, such as pyrite, to air and water. This exposure triggered a series of chemical reactions that caused the ground water to become acidic. As the acidic ground water moves through the soil and around rocks, it dissolves metals in the ground. Eventually, the acidic ground water can seep out of the ground and into nearby creeks, as it has already entered the Bryant Creek watershed.

The United States Environmental Protection Agency (USEPA) has issued an Administrative Abatement Action to the Lahontan Water Board (one of the nine regional water boards), thereby directing pollution abatement activities at Leviathan Mine.

Governor's Budget. The Governor's Budget proposes \$582,000 from General Fund and \$2.9 million of one-time funding from the Water Quality Control Fund for a total request of \$3,482,000. The General Fund would pay for 1.9 limited-term positions and contract funds. These funds would be used for ongoing operations at Leviathan Mine, including pond water treatment, removal and disposal of sludge, and water monitoring.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

6. Reduction of the Water Rights Backlog

Background. The State Water Board issues all permits for water takes from California's surface and ground waters. Water right permits are issued conditionally, and include terms to guard against impacts to other legal water users and mitigate for environmental effects of water supply projects. When unregulated diversions occur, water supplies to legal users are reduced, and adverse environmental impacts can occur.

In 2003-04, the State Water Board's Division of Water Rights main source of funding, the General Fund, was replaced with fee-based funding. These new fees include filing fees for all applications and petitions, and annual fees for certain pending applications and petitions. However, processing the fees has taken staff time away from processing applications.

The State Water Board has approximately 567 pending water right applications and 630 petitions requesting approval to amend applications that have already been publicly noticed, or to change the conditions of existing water right permits.

Governor's Budget. The Governor's Budget proposes \$693,000 from the General Fund for 6.3 positions for water rights application and change petition processing.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

7. SB 729 Implementation: Water Quality Enforcement Assurance and Transparency of Action

Background. AB 729 (Simitian, 2006) authorizes the State Water Board to act under the same authority as the Regional Boards to conduct water quality investigations and administratively impose civil liability for violations of certain water quality requirements. SB 729 also requires each Regional Board to coordinate with the State Water Board and other state agencies with respect to water quality matters and report rates of compliance with water quality requirements.

Governor's Budget. The Governor's Budget proposes \$74,000 from the Waste Discharge Permit Fund for 0.5 positions to implement SB 729.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

Discussion Items

8. Proposition 13 and Proposition 50 Funding

Background. The State Water Board has adopted guidelines for the implementation of Proposition 13 and Proposition 50 local assistance grant funds. The guidelines establish a competitive process and criteria for selecting projects. State Water Board staff inspects projects during and after construction and reviews progress reports and invoices.

According to the California State Treasurer's Office, as of June 1, 2006, there are still \$27.6 million in unissued general obligation bonds for the Water Conservation and Water Quality Bond Law of 1986. The State Water Board informs staff that this is because these bond funds are specified to be loans, and the board has trouble finding interested applicants (most local agencies prefer grants).

Governor's Budget. The Governor's Budget proposes a total of \$132,542,000 from Proposition 13, Proposition 50, and 1986 Bond funds. Of these funds, \$35,552,001 is a reappropriation and \$96,991,000 is new funding. The funds are proposed as follows:

- 1986 Water Quality Bond – \$2.2 million local assistance reappropriation for agricultural drainage loans
- 1986 Water Quality Bond – \$4.6 million local assistance appropriation for agricultural drainage loans
- Proposition 13 – \$7,464,507 local assistance reappropriation for wastewater construction, coastal non-point source pollution control, and Southern California Integrated Watershed Program
- Proposition 13 – \$1,036,000 local assistance appropriation for water recycling
- Proposition 50 – \$25,887,494 local assistance reappropriation for water recycling and Integrated Regional Water Management
- Proposition 50 – \$91,355,000 local assistance appropriation for water recycling and Integrated Regional Water Management

Projects Ready for Funding. The \$82 million for Integrated Regional Water Management projects would be provided to projects that have already been approved by the State Water Board. These projects represent \$75 million in funding. The rest of the funds would be granted to projects that have not yet been approved by the State Water Board. The approved projects are:

- \$25 million – Santa Ana Watershed Project Authority
- \$12.5 million – Tahoe Resource Conservation District
- \$12.5 million – Contra Costa Water District
- \$12.5 million – Monterey County Water Resources Agency
- \$12.5 million – Community Foundation of Santa Cruz County

Staff Recommendation. Staff recommends the Subcommittee hold this item open.

9. Wastewater Regulatory Programs Funding

Background. Under the Porter-Cologne Act, the State Water Board is responsible for preserving, protecting, and enhancing the quality of the waters of the state. The State Water Board is also responsible for implementing the Clean Water Act.

In 1989, the United States Environmental Protection Agency and the State Water Board signed an MOU that required the State Water Board to administer the National Pollutant Discharge Elimination System (NPDES) program in accordance with federal and state laws, regulations, and policies. The NPDES issues wastewater permits.

In the *2006-07 Budget Act*, rather than increase fees to support the NPDES program, the Governor and the Legislature provided NPDES with \$4 million in one-time general fund monies.

Governor's Budget. The Governor's Budget proposes \$1.3 million from General Fund and \$2.7 million from the Waste Discharge Permit Fund to continue support for existing staff in the NPDES program.

Staff Analysis. In last year's budget, the Governor proposed and the subcommittee supported using the \$4 million increase to the National Pollutant Discharge Elimination System (NPDES) permit fees provide for the costs of this program. In the final budget, this funding source was substituted with general fund on a one-time basis. In this proposal, the administration is proposing to maintain funding levels for this program and continue supporting staff from the general fund on an ongoing basis.

While staff generally agrees with the administration that these programs serve the overall public good and do merit general fund support, it is also appropriate that a percentage of the costs of monitoring discharged pollution be supported by those that discharge into public waterways. Staff suggests that the subcommittee look again at the feasibility of using fee revenue to support some if not all of these programmatic costs

Staff Recommendation. Staff recommends the Subcommittee hold this item open to allow for the public to submit comments on whether or not the permit fee should be raised in order to fund program costs.

10. SB 1070, Water Quality Information

Background. The State Water Board Surface Water Ambient Monitoring Program (SWAMP) would administer the requirements of SB 1070. SB 1070 (Kehoe, 2006) requires the State Water Board to:

- Place on its web site a public information file on water quality monitoring, assessment, research, standards, regulation, and enforcement.
- Administer the California Water Quality Monitoring Council.
- Develop a strategy for a comprehensive monitoring program that utilizes and expands upon the state's existing statewide, regional, and other capabilities.

- Identify the full cost of the implementation of the comprehensive monitoring program strategy and identify proposed sources of funding for implementation of the strategy.

Governor's Budget. The Governor's Budget proposes \$113,000 from the Waste Discharge Permit Fund for 1.4 positions to implement SB 1070.

Staff Analysis. The SWAMP program received a \$4 million redirection of funding in 2006-07 for new positions. The department has not demonstrated why some of those positions could not be used to cover the responsibilities identified in SB 1070.

Staff Recommendation. Staff recommends the Subcommittee hold this item open to allow the State Water Board to provide staff with information as to how the \$4 million from 2006-07 was allocated and why none of those funds can be directed toward the SB 1070 tasks.

11. Agricultural Waiver Program

Background. In areas where polluted wastewater is discharged into surface waters, the Regional Boards establish waste discharge permit requirements which put restrictions on the kinds of waste and the amounts that may be discharged. State law allows regional boards to waive the waste discharge requirements if it is in the public interest, typically because the amount of discharge is insignificant. The Regional Boards typically make the grant of a "waiver" to the discharger subject to some conditions, such as requiring the discharger to monitor its discharges. Historically, the Regional Boards have regulated runoff from agriculture under conditional waivers.

The Central Coast, Los Angeles, and Central Valley Water boards have adopted conditional waivers for discharges from irrigated lands that require dischargers to monitor water quality and to take corrective actions if water quality impairments are found. Implementing this waiver will require the Regional Boards' staff to review monitoring plans and reports, work with discharger groups, and make recommendations to the Regional Boards on how the conditional waiver may need to be modified, based on information found.

Applying for an agricultural waiver is voluntary. If a land owner does not apply for the waiver, they have to meet all other clean water regulations without monitoring their own discharges.

Funding History. In 2005, the State Water Board adopted a fee schedule for the agricultural waivers program, which was anticipated to raise \$1.9 million in annual revenues. However, due to low enrollment rates and confusion over what acreage is actually covered by the program, the agricultural waiver fee only generated about \$570,000 in 2005-06 and is expected to generate \$600,000 in 2006-07. Rather than raise the fee, the Legislature provided the program with a one-time appropriation of \$1.6 million General Fund in 2006-07.

Governor's Budget. The Governor's Budget proposes \$1,635,000 General Fund to support 21.2 existing positions in the agricultural waiver program.

Staff Recommendation. Staff recommends the Subcommittee hold this item open to allow for the public to submit comments on whether or not the permit fee should be raised in order to fund program costs.

12. Proposition 84 Water Programs

Governor's Budget. The Governor's Budget proposes \$105.3 million in Proposition 84 bond funds for 18.2 positions and local assistance grants for water pollution control, agricultural water quality, urban storm-water runoff reduction, and the clean beaches program. Of the total amount, \$4.1 million would be for state operations and \$101.2 million for local assistance grants. The funds would be spent on:

- **State Water Pollution Control Revolving Fund - \$73.2 million (\$80 million - total authorized)** – Funding provides a match for federal capitalization grants that provide financial assistance in the form of low interest loans for the construction of publicly owned wastewater treatment facilities, stormwater pollution control projects, nonpoint source pollution control projects and estuary enhancement projects.
- **Agricultural Water Quality Grant Program - \$6 million (\$15 million – total authorized)** – Funding provides grants awarded to public agencies or nonprofit organizations for the purposes of improving agricultural water quality through demonstration projects, research, construction of agricultural drainage improvements, and for projects to reduce pollutants in agricultural drainage water through reuse, integrated management, or treatment.
- **Urban Stormwater Grant Program - \$14 million (\$90 million – total authorized)** – Funding provides grants to local public agencies for projects designed to implement stormwater runoff pollution reduction and prevention programs, including diversion of dry weather flows to publicly owned treatment works and acquisition and development of constructed wetlands.
- **Clean Beaches Grant Program - \$6.4 million and Santa Monica Bay Restoration Commission - \$1.6 million (\$90 million – total authorized)** – Funding provides grants to public agencies for projects in coastal waters, estuaries, bays and near shore waters that are intended to improve coastal water quality at public beaches, upgrade existing sewer collection or septic systems, and implements stormwater pollution reduction programs and best management practices.

Staff Analysis. Staff recommends the Subcommittee hold this item open until the Governor's May Revise Budget is released and the Subcommittee hears all other Proposition 84 items.

13. Watershed Protection and Basin Planning

Background. The State Water Board works to improve water quality by regulating individual industries and sewage treatment facilities. However, local agencies have the authority to encourage and regulate land use practices that cumulatively make the difference in determining whether water quality is met or not. Local water quality and planning efforts can assist in planning for long-term water quality sustainability. Regional planning coalitions offer economies of scale and regional cooperative scenarios that the state cannot necessarily capture.

Current law requires cities and counties to adopt a general plan with mandatory elements including land use, housing, conservation, open space, noise, and safety. Water is an optional element in local planning. Many general plans are out of date and virtually none include a comprehensive water element that coordinates consideration of water issues with other elements.

The California Water Plan is intended to be a guiding document for the State's water quality and priorities for water quality attainment. The water quality control plans contribute to the California Water Plan, but many of those documents have not been revised since they were first developed 35 years ago.

Governor's Budget. The Governor's Budget proposes \$6.1 million in Proposition 84 bond funds for 11.9 positions and local assistance. The funds would be used toward a pilot grant program for local agencies to update their general plans to incorporate watershed protection efforts into their land use policy. In addition, the funds would be used for scientific contracts to incorporate water quality basin plans into the next update of the California Water Plan.

- **Watershed protection.** \$1.8 million to implement a pilot grant program for local agencies to update their general plans to incorporate watershed conservation strategies into land use policy in order to minimize water quality impacts of conventional land development on California's water resources.
- **Water Basin Plans.** \$3.2 million and 10.9 PYs to incorporate the State Water Board's water quality basin plans into the next update of the California water plan. California's Water Basin Plans assess regional water quality and water supply and act as guiding documents for the expenditure of Regional Water Management funding. The State Water Board reports that many of California's regional Water Basin Plans are out of date with many standards, as they have not been revised since their original development 35 years ago.

Staff Analysis. The funding requested in this proposal would be allocated out of a \$90 million allocation from Chapter 9 of Proposition 84 for a wide variety of grants, loans, and incentives to encourage environmentally focused land use planning. This section of the bond is very broad and requires implementing legislation.

Staff Recommendation. Staff recommends the Subcommittee hold this item open until the Governor's May Revise Budget is released and the Subcommittee hears all other Proposition 84 items.

14. Data Management IT Systems

LAO Analysis. Like any modern organization, the State Water Board and the nine regional water boards rely upon IT for many of their core business functions. The SWRCB IT systems serve a variety of purposes, including administrative functions, permitting and enforcement systems, water quality monitoring, and providing public access to water quality and enforcement data (through the Internet). The boards are constantly revising, updating, and adding to their IT systems. Currently, at least five separate IT projects are currently in progress, with one-time development costs projected to total about \$3.7 million for these projects.

On numerous occasions, the Legislature has stressed the fundamental role that management of data—including permitting, enforcement, and water quality—at the boards plays in assisting the board to carry out its mission. This is critical to informing the board’s decision making, and the public-at-large, and in effectively targeting resources to program areas most in need.

Strategic Plan Needs Update. Every state department is required to have a strategic plan to guide its IT activity, known as an Agency Information Management Strategy (AIMS) report. The purpose of this strategic plan is to ensure that departments have a clear direction with respect to IT, including identification of priorities. Along with its use internally to state departments, the plan is submitted to the Department of Finance to assist in its review of the budget. The board has indicated that its AIMS is outdated, and that a new IT plan is needed. Furthermore, the LAO notes, the board has changed its IT strategy and a revised AIMS report must be prepared when there is a significant change in IT strategy. This plan is particularly important at SWRCB because, as the board adopts IT systems pursuant to the plan, the nine regional boards are then required to use these IT systems to accomplish their goals.

Legislative Oversight Circumvented. In past years, the Legislature, through the budget process, has reviewed IT proposals from the water boards. Most notably, a proposal for an upgrade to the core permitting and enforcement database was presented at hearings on the 2002-03 budget but was rejected by the Legislature for funding based on the design of the system. Shortly thereafter, the board developed a contract with the federal government, wherein a system similar to the one rejected by the Legislature would be designed by the board under federal contract with certain development costs to be paid directly by the federal government. In other words, the board proceeded with an IT project that the Legislature rejected by going outside the budget process. In subsequent years, the board administratively directed program funds to continue the project, making legislative review difficult.

The original purpose of this IT system—referred to as CIWQS—was solely to automate federal permitting for pollution discharges. (The state is delegated responsibility for issuing and enforcing federal water quality permits.) The project, however, has expanded significantly over time. The LAO identified total costs of about \$4.6 million to develop and maintain CIWQS at the state board, of which only \$1.7 million has been paid for by the federal government. Ongoing maintenance and operation costs are being paid by the state from special funds (mainly fees) as part of the board’s permitting and enforcement activities. The LAO estimates \$738,000 would be used to maintain the system in the budget year.

Data Entry Backlog. The original scope of the CIWQS project was to automate the federal permitting process. However, the state board has expanded the scope of CIWQS by beginning to link various other existing data management programs, including those used by regional boards, to the CIWQS system. For example, data entry related to state water quality permits issued at the regional board level must now tie into CIWQS. Moreover, the board has a number of new IT projects under development, each of which is specifically designed to link with CIWQS and will generally require the regional boards to change the way they conduct data entry.

While some regional boards have integrated well with the new scope of the program, others have struggled. For example, one regional board halted all data entry into the new system for six months because it was unsure of how the system would be used in the future. This board still uses a duplicate paper-trail system in addition to the new automated system for day-to-day activities, which is inefficient and adds unnecessarily to costs.

The ongoing expansion of the scope of CIWQS exacerbates backlogs in data entry that have developed at the regional board level, particularly related to permitting, enforcement, and water quality monitoring data. Because of backlogs in data entry that would otherwise provide regional board staff with a picture of the state of water quality in their areas, they may not be targeting their resources as effectively as possible. This data backlog is also problematic because it creates the potential for the public to be misled as it uses the Internet to seek water quality-related information. For example, where backlogs occur with only partial data being put on the Internet, it would not be clear to the public that the information they are viewing contains gaps or is outdated.

LAO Recommendation. The LAO finds that the board's basis for adopting new IT projects is unclear and the Legislature has no basis on which to review how new IT projects fit into the board's overall IT strategy. Based on this, the LAO recommends the adoption of budget bill language requiring the board to update its AIMS report and prohibiting expenditures for new IT projects until the report is updated and submitted for legislative review. The LAO recommends:

Item 3940-001-0001. No money appropriated in this item or any other items appropriating funds to the State Water Resources Control Board, can be used for new information technology projects until the board's Agency Information Management Strategy is updated to reflect the board's current information technology strategy and submitted to the Joint Legislative Budget Committee no sooner than 30 days prior to any spending on information technology projects.

In addition, the LAO thinks that legislative oversight of the board's IT projects would be significantly enhanced if the board were required to submit an IT implementation plan in conjunction with the submittal of the annual Governor's budget. This plan should include information on ongoing and proposed IT projects, one-time design and development costs, and ongoing maintenance costs. The LAO, therefore, recommends the adoption of budget bill language requiring the board to submit an IT implementation plan as part of the submittal of the annual Governor's budget.

Also, the users of CIWQS, including regional boards, regulated entities, and the public, have raised concerns to the state board about CIWQS, prompting the board to request an external review of this IT project to be completed in May 2007 by external program experts. The LAO thinks the Legislature should receive an unabridged version of this review, and the LAO therefore recommends that the board present the Legislature with the review at the same time as it is presented to the state board. This assessment would help the Legislature evaluate CIWQS and associated major IT projects at the board and assess the corrective actions the board is taking to address the identified problems with its IT programs.

The LAO additionally recommends that the board report at budget hearings on the extent of the CIWQS backlog and its plans to reduce it in the budget year.

Staff Recommendation. Staff recommends the Subcommittee take three actions:

1. Adopt the LAO recommended budget bill language:

Item 3940-001-0001. No money appropriated in this item or any other items appropriating funds to the State Water Resources Control Board, can be used for new information technology projects until the board's Agency Information Management Strategy is updated to reflect the board's current information technology strategy and submitted to the Joint Legislative Budget Committee no sooner than 30 days prior to any spending on information technology projects.

2. Direct the State Water Board to provide an unabridged copy of the IT project's external review to the Budget Committees of both houses, and request the LAO to review the IT project external review document and recommend appropriate action to the Legislature.
3. Adopt Supplemental Report Language directing the State Water Board to submit an IT implementation plan in conjunction with the submittal of the annual Governor's budget. The language would be:

On January 10, 2008, the State Water Resources Control Board shall provide to the Joint Legislative Budget Committee and the fiscal committees of each house of the Legislature a report with information regarding the board's information technology projects. The report will include information on ongoing and proposed IT projects, one-time design and development costs, and ongoing maintenance costs.

15. San Diego Bay Toxic Sediment Clean-up

Background. In 1996, the National Oceanic and Atmospheric Administration identified San Diego Bay as the second most toxic bay in the nation. A few years earlier, in 1991, the San Diego Regional Water Quality Control Board (San Diego Board) requested an initial sediment study of the San Diego Bay. However, it took until 2005 for the San Diego Board to issue a tentative Clean-up and Abatement Order (Order No. R9-2005-0126) for contaminated marine sediment in San Diego Bay.

The San Diego Board has yet to issue a final Order. The delay appears to be related to the San Diego Board's efforts to prepare an electronic index of documents and other information from their records related to the tentative Order. Also, the San Diego Board currently has one employee and one contractor assigned to the work.

While delays are taking place, the price of clean-up continues to escalate. The current estimate for removing the 885,000 cubic yards of toxic sediment is estimated at \$96 million.

Questions:

1. Why did it take so long for the San Diego Regional Water Quality Board to obtain a contractor and begin the work?
2. Why has the San Diego Regional Water Quality Board not established sediment standards for clean-up?
3. How can the Legislature ensure sufficient funding so this work can be completed in a realistic and timely manner?

Staff Recommendation. Staff recommends the State Water Board report back to the Subcommittee by May 1, 2007 on the staffing needs to create a final Order in a more expedited manner.

16. Water Quality Program Funding Level

Background. The Porter Cologne Water Quality Control Act is designed in part to control point and non-point sources of pollution. Non-point (polluted runoff) pollution is the sole or contributing cause of impairment in 76 percent of the surface water bodies around the state. These types of pollution typically come from irrigated agriculture, grazing, confined animal facilities, marinas, and timber harvesting activities. Pollutants from many of these activities have been detected in drinking water supplies that serve 16.5 million people in 46 California counties. In the Central Valley, numerous water bodies violate state and federal water quality standards. Many of these surface waters are polluted to an extent that also makes them hazardous to aquatic life. Some of these pollutants have migrated into groundwater. The application of manure on lands or the runoff from some livestock operations creates a risk that E. coli and other pathogens can be spread into the human food chain or public water supplies.

California currently requires that these sources of pollution comply with the Porter Cologne Water Quality Act either through a waiver that covers these activities or through a waste discharge requirement. In 2003, a series of obsolete waivers were rescinded by operation of law and authorized fees in order to fund these programs.

However, despite these changes in the law, only three of nine regional boards have adopted waivers for irrigated agriculture, none have comprehensive waivers or water discharge requirements (WDR) for grazing (despite the E. coli situation), and none have WDRs or waivers for polluted runoff. Additionally, little attention has been paid to the problem of pollution affecting groundwater supplies. While it is true that not all of these activities are present in all

the areas served by regional boards, it is clear that the significant non-compliance with Porter-Cologne is ongoing.

LAO 2002 Analysis. The Legislative Analyst's Office reported in the *Analysis of the 2002-03 Budget Bill* that the SWRCB had substantial unmet funding requirements for its water quality programs. The LAO's findings were based on a needs analysis conducted by the board in 2001. This analysis found that the board would need an additional \$100 million above the current level of funding to fully address its current workload. In addition, the board estimated that an additional \$70 million would be needed to address future workload as the universe of waste dischargers under regulation increased.

Since 2002, legislation has been enacted to shift the majority of the water quality programs to fee-based funding. The LAO indicated that the Legislature should consider the board's funding requirements when enacting legislation to shift program funding from the General Fund to fee-based funding. However, these funding requirements were never addressed and funding levels have been frozen at relatively the same level as when the program was supported largely by the General Fund. Therefore, substantial unmet funding requirements continue for the board's water quality programs. This has likely been further exacerbated by the numerous General Fund reductions made to the board's operations over the past few budget cycles.

Staff Recommendation. Staff recommends the Subcommittee adopt the following Supplemental Report Language:

On or before January 10, 2008, the State Water Resources Control Board shall provide to the chairs and vice chairs of the fiscal committees of the Senate and the Assembly a report that discusses the State Water Resources Control Board's financial needs to fully fund the Board's programs. The report will also include information on what the Board is doing to increase accountability in water delivery between the regional water boards.

On or before January 10, 2010, the State Water Resources Control Board shall submit a report to the Legislature, including the chairs and vice chairs of the fiscal committees of the Senate and the Assembly, that discusses potential options for modifying the State Water Resources Control Board's regulatory structure.

17. The Petroleum Underground Storage Tank Fund Sunset

Background. AB 1906 (Chapter 774/Statutes of 2004) extended and increased funding for the Petroleum Underground Tank Cleanup Fund. This fund provides moneys to reimburse parties, ranging from residential tank owners to large corporations, for the purposes of cleaning up leaking petroleum fuel tanks. That measure also set aside \$10 million per year for brownfields petroleum contamination cleanup. The program has successfully disbursed funds to cleanup brownfields in urban areas. However, under current law, the program is scheduled to sunset at the end of the calendar year.

Staff Recommendation. Staff recommends the Subcommittee adopt trailer bill language to eliminate the fund sunset.

3960 Department of Toxic Substances Control

Background. The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; the General Fund; and federal funds.

Governor's Budget. The Governor's Budget proposes \$144 million to support the DTSC in 2007-08. This is 2.5 percent less than estimated expenditures in the current year. This reduction is due to a decrease in General Fund appropriations.

Summary of Expenditures				
<i>(dollars in thousands)</i>	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Site Mitigation and Brownfields Reuse	\$ 102,137	\$ 106,047	\$ 3,910	3.8
Hazardous Waste Management	66,999	65,711	-1,288	-1.9
Science, Pollution Prevention, and Technology	10,593	11,178	585	5.5
State as Certified Unified Program Agency	1,199	1,271	72	6
Capital Outlay	3,963	0	-3,963	-100
Administration	31,475	33,217	1,742	5.5
<i>less distributed administration</i>	<i>-31,475</i>	<i>-33,217</i>	<i>-1,742</i>	<i>5.5</i>
Total	\$ 184,891	\$ 184,207	-\$684	-0.4
Funding Source				
General Fund	\$ 32,453	\$ 25,321	-\$7,132	-21.9
Special Funds	115,480	118,953	3,473	3
<i>Budget Act Total</i>	<i>147,933</i>	<i>144,274</i>	<i>-3,659</i>	<i>-2.5</i>
Federal Funds	26,567	27,801	1,234	4.6
Reimbursements	10,391	10,632	241	2.3
Stringfellow Insurance Proceeds Account	0	1,500	1,500	100
Total	\$ 184,891	\$ 184,207	-\$684	-0.4

Vote-Only Items

1. Reducing Exposure to Toxic Chemicals: Pollution Prevention and Compliance

Background. The Department of Toxic Substances Control (DTSC) has a mandate to protect public health and the environment. Its primary activities are related to managing hazardous wastes and restoring brownfields, but it also has an active pollution prevention program.

The Pollution Prevention Development for Chemicals of Concern Program (PPDCCP) intends to proactively reduce the use of chemicals of concern, rather than waiting until a problem reaches the level where prescriptive regulations become necessary. The program aims to:

- Identify where and how much of these products are used;
- Work directly with California's industries to identify pollution prevention opportunities;
- Promote green chemistry in California's industries;
- Research alternative materials and processes; and
- Provide a clearinghouse of relevant pollution prevention and green chemistry information.

Governor's Budget. The Governor's Budget proposes \$451,000 from the Toxic Substances Control Account for 3.5 permanent positions to work on the Pollution Prevention Development for Chemicals of Concern Program. Specifically, work will target metals in packaging and lead in children's jewelry.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

2. Enforcement and Outreach of Treated Wood Waste

Background. Treated wood waste has been treated with chemical preservatives, such as pentachlorophenol, chromated copper arsenate, or copper compounds. The wood is treated to prevent rotting and protect against insects. However, these additives would in most cases be classified as hazardous waste, but an exemption for treated wood waste in statute allowed disposal at landfills. The Department of Toxic Substances Control (DTSC) estimates that annually about 100,000 tons of treated wood waste is destined for landfill disposal.

AB 1353 (Matthews, 2003) repealed the treated wood waste exemption from being classified as hazardous waste as of January 1, 2007. Thus, treated wood waste is now within DTSC's regulatory responsibility. The DTSC adopted regulations for management standards for treated wood waste as an alternative to the full hazardous waste requirements. Small quantity generators (1,000 pounds or less) are exempt.

Governor's Budget. The Governor's Budget proposes to redirect \$431,000 in operating expense and equipment funding for 4.5 permanent positions and one limited-term position to implement and enforce the new treated wood waste law. No new funds are requested.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

3. Transfer Navy Military Base Oversight to Cost Recovery Program

Background. Since September 1993, the Department of Toxic Substances Control (DTSC) has been the lead state agency for military base remediation activities. DTSC currently oversees 65 Navy installations for remediation activities. Of these Navy installations, 59 are invoiced through cost reimbursement and six are invoiced through a federal grant.

The Navy has requested that all of its installations be moved to direct billing to reduce administrative costs. The direct billing has worked well for DTSC.

Governor's Budget. The Governor's Budget proposes a funding shift of \$700,000 from federal grants to cost recovery for the DTSC's oversight of six Navy installations. No new funds are requested.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

4. Laboratory Infrastructure and Equipment

Background. The Department of Toxic Substances Control (DTSC) received \$1 million in the 2005-06 Budget to purchase equipment for the Environmental Chemistry Laboratory. At the time, DTSC management decided to conduct a review of the potential chemicals and analytical methods for which the instruments would be used so as to ensure the right equipment was ordered. However, negotiations with instrument manufacturers took too long and DTSC was unable to spend the funds within one year before those funds reverted.

DTSC is now confident that it has information about the specific equipment that needs to be ordered, and will be able to use the funds quickly and cost-effectively.

Governor's Budget. The Governor's Budget proposes a total of \$978,500 (\$719,000 from the Hazardous Waste Control Account and \$259,000 from the Toxic Substances Control Account) in one-time funds for equipment for the Environmental Chemistry Laboratory.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

5. Glendale Regional Office Move

Background. The Department of Toxic Substances Control (DTSC) Glendale Regional Office is currently in a building where the lease expires in December 31, 2007. Currently, the Glendale Regional Office is located in a renovated warehouse with many structural problems. DTSC offices have many specialized needs, such as ability to store hazardous or explosive samples. Although DTSC has yet to identify a new office location, the Glendale Regional Office can be left with 30 days written notice.

Governor's Budget. The Governor's Budget proposes \$1,899,000 from various special funds for relocating the Glendale Regional Office. The funds would be used for:

- \$150,000 – Moving costs
- \$750,000 – Modular furniture
- \$172,000 – Cabling and de-installation and installation of computers
- \$7,000 – Overtime for information technology and administrative services staff to set up the office on the weekend

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

6. Stringfellow Hazardous Waste Site Management Augmentation

Background. The Stringfellow Hazardous Waste Site (Site) is a federal superfund near the community of Glen Avon in Riverside County. Until 1972, the Site received approximately 34 million gallons of highly acidic metal and organic waste, which has seeped into the groundwater. The Department of Toxic Substances Control (DTSC) is working to remediate the Site under the direction of the United States Environmental Protection Agency.

In 1992, a federal court deemed the State of California solely responsible for the Site. This was because the state selected the Site and issued all of the permits for operation. The state spends \$13 million on Site remediation annually, but there is no cost estimate for the total cost of cleanup.

Governor's Budget. The Governor's Budget proposes \$2.2 million from the General Fund for the operation and maintenance of the Stringfellow Hazardous Waste Site. Also, the Governor's Budget proposes \$1.5 million for two years from the Stringfellow Insurance Proceeds Account to continue the removal and remediation activities.

The Governor's Budget also includes trailer bill language that would become effective in January 1, 2013. This trailer bill language states that all assests, liabilities, and surplus of the Stringfellow Insurance Proceeds Account shall, as of July 1, 2013, be transferred to, and become a part of this Subaccount for the Stringfellow site, as provided by Section 16346 of the Government Code. All existing appropriations from the Stringfellow Insurance Proceeds Account, to the extent encumbered, shall continue to be available for the same purposes and

periods from this Subaccount. The trailer bill language makes other technical changes related to the account transfer.

The trailer bill language also incorporates the 2002 Memorandum of Understanding between the State and participating defendants into the activities to be carried out.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

7. Transfer Authority from Site Operation and Maintenance Account

Background. The Department of Toxic Substances Control (DTSC) is responsible for recording a Land Use Covenant when hazardous waste remains on a property at which the land is not suitable for unrestricted uses. Existing statute requires that DTSC collect funds to cover the cost of administering these Land Use Covenants. The statute also allows the land owner to pay DTSC administration costs years into the future. Those funds are then deposited into a Site Operation and Maintenance Account, from where they are withdrawn to cover administration expenses.

Governor's Budget. The Governor's Budget proposes to transfer \$10,000 from the Site Operation and Maintenance Account to the Toxic Substances Control Account and the Hazardous Waste Control Account to pay for DTSC's cost of providing oversight to projects with funding from the Site Operation and Maintenance Account.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

Discussion Items

8. Board of Equalization Fee Collection and Fund Shift

Background. The *2006-07 Budget Act* included trailer bill language that expanded the types of businesses subject to the environmental fee. The new entities subject to the fee include limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships. There are expected to be about 6,600 new fee-payers. The fee collection will begin in 2008.

The Board of Equalization collects all of DTSC's fees. The Board of Equalization commingles its collection activities associated with the environmental fee and the hazardous waste industry fees, and has not been able to provide DTSC with actual cost data differentiated between these two fee categories.

Governor's Budget. The Governor's Budget proposes \$268,000 (\$68,000 one-time) from the Toxic Substances Control Account to pay the Board of Equalization for expanding Environmental Fee collection.

The Governor's Budget also includes a funding shift of \$2,931,353 from the Hazardous Waste Control Account to the Toxic Substances Control Account to pay for Board of Equalization fee collection services from the appropriate account.

Proposed Trailer Bill Language. The Governor's Budget includes trailer bill language that would eliminate existing statute requiring that appropriation from the Toxic Substances Control Account for the administration and collection of fees be limited to \$500,000. The trailer bill language also would limit the payment for fee collection to the expenses incurred in collecting fees for deposit to the Hazardous Waste Control Account.

Staff Recommendation. Staff recommends the Subcommittee hold this item open to give staff time to work with the Department of Finance and DTSC on the wording of the trailer bill language.

9. Hazardous Materials Remediation Activities – Continued

Restoration of Our Urban Environment

Background. During the 2006 Legislative session, the Legislature passed three bills that address site mitigation and brownfields. These bills are:

- **SB 989 (Committee on Environmental Quality, Chapter 510)** – Hazardous Material Bona Fide Ground Tenant Remedial Actions – Provides liability immunities similar to those provided under the California Land Reuse and Revitalization Act of 2004 to Bona Fide Ground Tenants, provided they meet certain conditions and conducts certain site assessment and cleanup actions.
- **SB 354 (Escutia, Chapter 523)** – Hazardous Materials Release Remediation – Allows California Land Environmental Restoration and Reuse Act authority to be used at more sites to encourage the cleanup and redevelopment of more brownfield sites. This bill allows local agencies to act at sites with pending state agency enforcement orders.
- **AB 2144 (Montanez, Chapter 562)** – Hazardous Materials Land Use – Modifies the public participation requirements under the California Land Environmental Restoration and Reuse Act and under the Porter-Cologne Water Quality Control Act, and authorizes the DTSC to require that data and information be submitted in electronic format. This authority will make the transmission and transfer of information more efficient and cost-effective, and will also allow for more timely access to that information, as well as analysis.

Governor's Budget. The Governor's Budget proposes a total of \$219,000 (\$119,000 from reimbursements and \$100,000 from the Toxic Substances Control Account) for two permanent

positions to implement and coordinate three new bills dealing with brownfields. These positions would be a hazardous substances engineer and an associate government program analyst.

Staff Analysis. This newly-passed statute mainly gives authority to local agencies and land tenants regarding environmentally contaminated land. The tasks given to the Department of Toxic Substances Control by this legislation are relatively minor, with the exception of AB 2144, which deals with electronic data. However, DTSC did not ask for IT personnel with their request.

Staff Recommendation. Staff recommends the Subcommittee reject the budget proposal.

10. California Environmental Contaminant Biomonitoring Program: Planning for Implementation

Background. Scientific studies have identified a multitude of environmental chemicals as toxic to humans, but with few exceptions, relatively little is known about the presence of these chemicals inside people's bodies. Increases in breast and brain cancer, infertility, asthma, autism and other developmental diseases have heightened public concern about potential effects of environmental exposures. Some chronic diseases have been linked with exposure to synthetic chemicals, including a variety of common chemicals that can mimic or block actions of hormones necessary for growth and maintenance of health.

SB 1379 (Perata, 2006) establishes the California Environmental Contaminant Biomonitoring Program (CECBP) to systematically collect, analyze, and archive blood and other human biological specimens from a statistically valid representative sample of California's general population. The CECBP will be undertaken by the Department of Public Health, the Department of Toxic Substances Control (DTSC), and the Office of Environmental Health Hazard Assessment.

The CECBP will be used to:

- Determine baseline levels of environmental contaminants in Californians' blood and other human biological samples.
- Establish trends in the levels of these contaminants in people over time.
- Assess the effectiveness of public health efforts and regulatory programs to reduce exposures of Californians to specific chemical contaminants.

The CECBP will coordinate with the Center for Disease Control's biomonitoring program to the greatest extent possible. The Center for Disease Control has two decades of experience in designing and implementing similar sampling and data collection and management protocols in the National Health and Nutrition Examination Survey. The findings of the national and California programs will be compared.

The role of the three departments during the first year will be to:

- Develop a detailed outline of the study designs and plans for participant recruitment.

- Prepare draft versions of participant questionnaires.
- Appointment of the Scientific Guidance Panel.
- Hold an initial meeting of the Scientific Guidance Panel, supported by relevant documents, including a candidate chemical list for evaluation.

Governor's Budget. The Governor's Budget proposes \$123,000 from the General Fund for one permanent position to begin the planning process that will develop the California Environmental Contaminant Biomonitoring Program.

Staff Analysis. The Biomonitoring program could be accelerated with more resources. In order to procure laboratory equipment in the first year, an additional \$200,000 in funding is necessary. Also, additional positions for DTSC would allow initiation of field sampling protocols and develop and validate analytical methodologies for chemical classes. With additional staff, DTSC could also write standard operating procedures. Staff estimates that three additional positions are needed to complete these tasks.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's proposal with an additional \$437,000 for a total of four positions and equipment.

3980 Office of Environmental Health Hazard Assessment

Background. The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

Governor's Budget. The Governor's Budget proposes \$14 million to support the OEHHA in the budget year. This is a slight increase in funding from the estimated expenditures in the current year due to new budget proposals. General Fund support for the OEHHA remains relatively unchanged in the budget year.

Summary of Expenditures				
<i>(dollars in thousands)</i>	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Health Risk Assessment	\$ 17,072	\$ 17,459	\$ 387	2.3
Administration	3,263	3,266	3	0.1
<i>less distributed administration</i>	<i>-3,263</i>	<i>-3,266</i>	<i>-3</i>	<i>0.1</i>
Total	\$ 17,072	\$ 17,459	\$ 387	2.3
Funding Source				
General Fund	\$ 8,782	\$ 8,933	\$ 151	1.7
Special Funds	6,040	6,250	210	3.5
<i>Budget Act Total</i>	<i>14,822</i>	<i>15,183</i>	<i>361</i>	<i>2.4</i>
Federal Trust Fund	500	514	14	2.8
Reimbursements	1,749	1,762	13	0.7
Total	\$ 17,071	\$ 17,459	\$ 388	2.3

Vote-Only Items

1. Proposition 65 and Waste Discharge Compliance Assistance

Background. Proposition 65 was passed by the voters in 1986. It required businesses to post public notice of the presence of hazardous substances, especially ones that are known to cause cancer, birth defects, or other reproductive harm. A “safe harbor” number is the level of exposure to a hazardous substance that is believed to not pose a significant long-term risk. Many businesses use a safe harbor number as guidance in determining whether they need to provide Proposition 65 warnings concerning exposure to listed chemicals in their products or through their operations.

In 1991, the newly-created Office of Environmental Health Hazard Assessment (OEHHA) was given responsibility for implementing Proposition 65. OEHHA is in charge of developing the safe harbor numbers for substances listed as hazardous by Proposition 65. Of the over 750 chemicals currently listed as carcinogens, roughly half do not have safe harbor numbers. In addition, 90 percent of the chemicals listed as causing birth defects or other reproductive harm do not yet have safe harbor numbers. The safe harbor numbers are needed in order to provide the public with reliable information and to prevent over-labeling of substances as hazardous.

Over the years, various Proposition 65 issues have been litigated in the courts. OEHHA, the courts, the State Attorney General’s Office, business associations, and private enforcers have identified needed regulatory actions. It takes OEHHA’s one attorney approximately a year to deal with a single regulatory proposal. The current backlog of regulatory proposals has grown to 23, and additional needs are identified each year.

Governor’s Budget. The Governor’s Budget proposes \$203,000 from the Safe Drinking Water and Toxic Enforcement Fund for two permanent positions and two limited-term positions. These positions would be as follows:

- 2 currently limited-term positions made permanent, funded with special funds
- 1 new limited-term legal position, funded with special funds
- 1 new limited-term position to track legislative bills and conduct outreach, funded with redirected General Fund (that had previously funded a limited-term position)

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

2. California Environmental Contaminant Biomonitoring Program

Background. Scientific studies have identified a multitude of environmental chemicals as toxic to humans, but with few exceptions, relatively little is known about the presence of these chemicals inside people’s bodies. Increases in breast and brain cancer, infertility, asthma, autism and other developmental diseases have heightened public concern about potential effects of environmental exposures. Some chronic diseases have been linked with exposures to synthetic

chemicals, including a variety of common chemicals that can mimic or block actions of hormones necessary for growth and maintenance of health.

SB 1379 (Perata, 2006) establishes the California Environmental Contaminant Biomonitoring Program (CECBP) to systematically collect, analyze, and archive blood and other human biological specimens from a statistically valid representative sample of California's general population. The CECBP will be undertaken by the Department of Public Health, the Department of Toxic Substances Control, and the Office of Environmental Health Hazard Assessment.

The CECBP will be used to:

- Determine baseline levels of environmental contaminants in Californians' blood and other human biological samples.
- Establish trends in the levels of these contaminants in people over time.
- Assess the effectiveness of public health efforts and regulatory programs to reduce exposures of Californians to specific chemical contaminants.

The CECBP will coordinate with the Center for Disease Control's biomonitoring program to the greatest extent possible. The Center for Disease Control has two decades of experience in designing and implementing similar sampling and data collection and management protocols in the National Health and Nutrition Examination Survey. The findings of the national and California programs will be compared.

The role of the three departments during the first year will be to:

- Develop a detailed outline of the study designs and plans for participant recruitment.
- Prepare draft versions of participant questionnaires.
- Appointment of the Scientific Guidance Panel.
- Hold an initial meeting of the Scientific Guidance Panel, supported by relevant documents, including a candidate chemical list for evaluation.

Governor's Budget. The Governor's Budget proposes \$167,000 General Fund for 2.8 positions to plan for the implementation of SB 1379.

The funds requested for 2008-09 are \$434,000, as the program expands.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal.

Discussion Items

3. OEHHA Support: California Accidental Release Prevention Program

Background. The California Accidental Release Prevention Program (CalARP) was established to prevent the release of substances determined to pose the greatest risk of immediate harm to the public and the environment. Some chemicals pose a great risk to communities if they are accidentally released, such as ammonia, chlorine, or phosgene gas.

In 2004, CalARP adopted the federal Risk Management Program guidelines (which are part of the Clean Air Act), requiring that the commercial sector provide information about the type, inventory, volume, and inherent risks of the chemicals used or stored at their facilities. The Office of Emergency Services (OES) is responsible for developing regulations that establish statewide standards for the CalARP program, which local governments and Certified Unified Program Agencies use to implement the standards, and the Secretary of the Environmental Protection Agency oversees the implementation of the program as a whole.

OES has requested OEHHA's assistance in meeting OES's responsibility for completing and maintaining the list of CalARP regulated substances, their toxic endpoints, and threshold quantities. A chemical-by-chemical review of the list of regulated substances and analysis of quantities allowed to be stored onsite at facilities has never been completed.

Governor's Budget. The Governor's Budget proposes \$125,000 from the Unified Program Account for one position.

The one staff toxicologist would:

- Complete and periodically update the toxic endpoint analysis for the state list of regulated hazardous chemicals.
- Assist the Office of Emergency Services in establishing or revising toxicological and health-based parameters used in evaluating risks from chemical releases.
- Complete a review of each regulated substance and provide technical expertise for the periodic revision of the list of regulated chemicals and the threshold quantities.
- Assist the California Environmental Protection Agency in the development of CalARP policies and procedures under the Unified Program.

Staff Analysis. By statute, the Office of Emergency Services must develop CalARP policies and procedures. This task should not be given to OEHHA through the budget bill.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal with budget bill language specifying that OEHHA cannot establish policies and procedures for CalARP.

4. Public Health Goals

LAO Analysis. In California, two state entities—OEHHA and the newly constituted Department of Public Health (DPH), formerly part of the Department of Health Services—are responsible for assuring that the state’s drinking water is safe, pure, and potable. The OEHHA scientifically assesses the risks to human health posed by contaminants that may be found in the state’s public drinking water systems and are regulated or proposed to be regulated under DPH’s safe drinking water regulatory program (discussed below). Based on that scientific assessment, OEHHA adopts contaminant-specific goals, known as PHGs, that specify, based solely on public health considerations, the maximum levels of concentration at which various contaminants can be found in drinking water without adversely affecting human health. Statute specifies that OEHHA is to set each PHG at a level that protects the public from both acute adverse health effects and chronic disease. Statute further directs OEHHA to consider possible combined and interactive effects of exposure to two or more contaminants, as well as the effect of contaminants upon specified subgroups, including infants, children, pregnant women, and elderly persons, and persons suffering from serious illness.

The DPH manages the risk to human health identified in OEHHA’s PHGs (which are advisory) by setting primary drinking water standards (also known as “maximum contaminant levels” or “MCLs”). Statute requires DPH to set its MCL for each regulated contaminant as close as is technologically and economically feasible to the corresponding PHG. In this way, OEHHA’s PHGs form the scientific basis of DPH’s regulation of drinking water to ensure public health and safety. (Until PHGs are developed for a regulated contaminant, DPH is guided by a federal requirement that the state set safe drinking water standards at least as stringent as any federal standards for that contaminant.) The MCLs specify the maximum level of each contaminant allowable in the state’s public drinking water systems that are regulated by DPH.

Public drinking water systems, which can be either publicly or privately owned, are those systems that regularly supply drinking water to at least 25 people or 15 service connections. In California, there are over 7,000 public drinking water systems, each of which is regulated and permitted by DPH. These systems include both groundwater systems and surface water systems and supply drinking water to the majority of Californians.

Statute enacted in 1996 (and amended in 1999) provides a timeline for OEHHA to develop (and “publish”) PHGs for each drinking water contaminant regulated by DPH and to periodically review the PHGs, once developed. Specifically, OEHHA is required to have developed 25 PHGs by January 1, 1998, an additional 25 PHGs by January 1, 1999, and PHGs for all remaining drinking water contaminants for which DPH had adopted an MCL by December 31, 2001. (In 1996, DPH regulated 84 drinking water contaminants for which a PHG was to be developed.) Statute also requires OEHHA to have developed a PHG at the same time DPH proposes the adoption of an MCL for any newly regulated contaminant. In addition, statute requires OEHHA to review each established PHG every five years, and to revise the PHG as necessary, based on the availability of new scientific data.

Unlike most other regulatory-related programs within the California Environmental Protection Agency, OEHHA’s PHG program receives no funding from regulatory fees. Rather, the program has been funded entirely from the General Fund since its inception in 1997-98, at which

time the program's budget was \$835,000. For 2007-08, the budget proposes \$1.84 million from the General Fund for OEHHA's PHG program.

LAO Recommendation. The LAO thinks that funding for OEHHA's PHG program should be guided by the "beneficiary pays" principle. According to this principle, those who benefit from the use of public resources are responsible for paying the cost imposed on society to regulate that use.

The LAO thinks that public drinking water systems regulated by DPH benefit directly from OEHHA's PHG activities. This is because OEHHA's development of PHGs benefits the operators of public drinking water systems, in that the PHG program provides a basis in science for the drinking water standards adopted by DPH and prevents the standards from being more stringent than is necessary to protect public health. As such, the PHG program benefits the regulated public drinking water systems and, therefore, should be funded through fees assessed on these systems.

Shift Funding to Fees. The LAO recommends that OEHHA's PHG program be funded through existing regulatory program fees paid by operators of DPH-regulated public drinking water systems. (Currently, DPH collects permit fees from these operators and deposits them in the Safe Drinking Water Account [SDWA].) The LAO recommends permanently shifting all funding for OEHHA's PHG activity from the General Fund to SDWA, creating savings of \$1.84 million to the General Fund in the budget year. The LAO notes that, in light of a substantial balance projected to remain in SDWA at the end of the budget year (about \$6.6 million), the adoption of the LAO's recommendation is unlikely to require an increase in DPH's regulatory fees that support SDWA in either the budget year or the subsequent few years at current funding levels for the PHG program.

Reporting Requirement. In order to provide the Legislature with the information it needs to evaluate the budget proposed for OEHHA's PHG program, the LAO recommends that OEHHA report to the budget subcommittee of each house, prior to budget hearings, on the funding that would be required in 2007-08 and future years to enable OEHHA to address the following workload within the timeframes specified:

- Develop/publish PHGs for the six regulated contaminants remaining from the 1996 list of 84 contaminants, within one year.
- Complete reviews of the 49 PHGs developed more than five years ago, within two years. (The OEHHA should give priority to those developed PHGs that seem most likely in need of revision, based on new scientific data.)
- Complete review of PHGs developed since 2001 within five years of development, and every five years thereafter.
- As required by statute, develop/publish a PHG at the same time DPH, in the future, proposes the adoption of a primary drinking water standard for a newly regulated contaminant.

The report should also include OEHHA's estimates of the time it would take to address the above-noted workload (without the specified timeframes) at the current funding level of the PHG

program. The report will allow the Legislature to determine whether revisions to OEHHA's budget are appropriate so that the office can meet its statutory responsibilities for the PHG program in a timely manner. Finally, should the Legislature, based on the report, determine that funding for the PHG program should be increased, the LAO recommends that this increase be fee funded from SDWA.

Staff Recommendation. Staff recommends that the Subcommittee hold the item open until May revise to see if a shift from General Fund to fees would be prudent.

7300 Agricultural Labor Relations Board

Background. The Agricultural Labor Relations Board (ALRB) is responsible for conducting secret ballot elections to determine collective bargaining representation in agriculture and for investigating and resolving unfair labor practice disputes.

Governor's Budget. The Governor's Budget proposes \$5.1 million General Fund to support the Agricultural Labor Relations Board. This is nearly the same level of support as in the current year.

Summary of Expenditures				
<i>(dollars in thousands)</i>	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Board Administration	\$2,163	\$2,170	\$7	0.3
General Counsel Administration	2,942	2,946	4	0.1
Administration	265	263	-2	-0.7
<i>less distributed administration</i>	-265	-263	2	0.7
Total	\$5,105	\$5,116	\$11	0.2
Funding Source				
General Fund	\$5,105	\$5,116	\$11	0.2
Total	\$5,105	\$5,116	\$11	0.2

Staff Recommendation. Staff recommends the Subcommittee approve the budget as proposed.

8570 Department of Food and Agriculture

Background. The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program promotes California's agricultural products and protects consumers and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

Governor's Budget. The Governor's Budget proposes \$242 million to support CDFA in 2007-08. This is approximately \$9 million less than the level of expenditures estimated in the current year. This decrease is primarily due to a reduction in special funds.

Summary of Expenditures

(dollars in thousands)

	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Agricultural Plant and Animal Health, Pest Prevention, and Food Safety Services	\$ 172,586	\$ 160,947	- \$ 11,639	-6.7
Marketing and Commodity and Agricultural Services	68,736	58,993	-9,743	-14.2
Assistance to Fair and County Agricultural Activities	60,817	26,621	-34,196	-56.2
General Agricultural Activities	-	43,149	43,149	100.0
Capital Outlay	24,395	3,611	-20,784	-85.2
Administration	14,561	14,029	-532	-3.7
<i>less distributed administration</i>	<i>-13,376</i>	<i>-12,826</i>	<i>550</i>	<i>-4.1</i>
Total	\$ 327,719	\$ 294,524	-\$33,195	-10.1

Funding Source

General Fund	\$ 101,699	\$ 99,261	-\$2,438	-2.4
Special Funds	148,529	141,955	-6,574	-4.4
Bond Funds	1,180	1,178	-2	-0.2
<i>Budget Act Total</i>	<i>\$251,408</i>	<i>\$242,394</i>	<i>-\$9,014</i>	<i>-3.6</i>
Federal Trust Fund	42,779	38,762	-4,017	-9.4
Public Building Construction Fund	18,356	-	-18,356	-100.0
Harbors and Watercraft Revolving Fund	1,296	1,336	40	3.1
Reimbursements	13,879	12,032	-1,847	-13.3
Total	\$ 327,718	\$ 294,524	-\$33,194	-10.1

Vote-Only Items

1. Emergence Tower System for Fruit Fly Rearing Efficiency

Background. The California Department of Food and Agriculture (CDFA) rears and releases sterile fruit flies to prevent regular fruit flies from becoming common in California. These sterile fruit flies are bred in Hawaii, and then flown to California where they are reared in the Los Alamitos Medfly Rearing Facility. (Fruit flies are also called Medflies)

The United States Department of Agriculture (USDA) is building a new state-of-the-art laboratory in Los Alamitos. The CDFA will use this building, replacing the 54 trailers that were previously used to rear fruit flies. By using the USDA building rent-free, the CDFA can revert \$1 million that had previously been provided for constructing a new fruit fly rearing facility.

The USDA developed a tower system for rearing fruit flies, and has found it to be a more efficient method than previously used storage methods. Also, the tower system can increase fruit fly production by 50 percent, from 500 million fruit flies per week to 750 million per week.

Governor's Budget. The Governor's Budget proposes \$658,000 one-time funds from General Funds for a new fruit fly rearing system. Of this amount, \$500,000 would be for equipment and \$168,000 would be for repositioning and disposing of existing trailers.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal.

2. Hydrogen Purity and Performance Standards

Background. SB 76, Chapter 91, Statutes of 2005 requires the California Department of Food and Agriculture (CDFA), with the Air Resources Board, by January 1, 2008, to establish specifications for hydrogen fuels used in internal combustion engines and fuel cells. SB 76 also places the responsibility on CDFA for the sampling, testing, and enforcement action against distributors and sellers of non-compliant hydrogen fuels.

Based on the small number and geographic location of the existing hydrogen fuel sites, the CDFA is able to absorb workload related to sampling, testing, and enforcement without new positions.

Governor's Budget. The Governor's Budget proposes \$212,000 (\$53,000 on-going) from the Agriculture Account for laboratory equipment and supplies for the standardized sampling and testing of hydrogen fuel.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal.

3. Extension of Private Vehicle Inspection Pilot at the Needles Border Protection Station

Background. From 1921 to 2003, private vehicles entering California were screened for compliance with federal and state agricultural laws in an effort to minimize the introduction of pests that might cause damage to agricultural crops or native plant species. Due to fiscal constraints, the department discontinued the private vehicle inspection program. Commercial vehicles entering the state have always been subject to inspections.

In the *2006-07 Budget Act*, the Legislature provided the California Department of Food and Agriculture with General Fund monies to begin a one-year pilot project at the Needles Border Protection Station to restart private vehicle inspections.

In fiscal year 2002-03, 658,000 vehicles passed through the Needles border station. In 2006-07, 698,000 vehicles passed through the same border station. Still, in 2006-07, there have been 34 percent more vehicles caught with insects, plants, or other banned materials than there were in 2002-03. Also, during that same time, there was a 74 percent increase in variety of pests found over 2002-03.

Governor's Budget. The Governor's Budget proposes \$407,000 in one-time funding from General Funds for five one-year limited-term positions to continue the pilot project at the Needles Border Protection Station.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal.

4. Bakersfield Area Greenhouse Acquisition – Capital Outlay

Background. The glassy-winged sharpshooter is a pest that spreads Pierce's Disease. The disease is a threat to crops such as grapes, citrus, almonds, and stonefruit, as well as ornamental plants. The threat to the wine industry from Pierce's Disease has been estimated at \$3.2 billion from grape production alone, not counting associated economic activity. The glassy-winged sharpshooter is found in Kern County, but has not yet spread throughout California.

The spread of the glassy-winged sharpshooter is controlled with a parasitic wasp. This form of biocontrol allows for reduced use of pesticides to control the glassy-winged sharpshooter. Locations of the biocontrol facilities are restricted to areas already infested with the pest so as to not allow for accidental releases of the pest into a new area.

Project. The California Department of Food and Agriculture (CDFA) has been leasing a facility in Arvin, near Bakersfield, to breed parasitic wasps that check populations of the glassy-winged sharpshooter. The leased facility is approximately 47,000 square feet and sits on 4.18 acres of land. The facility is in good condition and meets the needs of the CDFA.

CDFA's lease includes a purchase option for the facility for about \$1.1 million. Given that rent is over \$13,000 a month, and that the facility meets CDFA's needs, the purchase is reasonable.

Governor's Budget. The Governor's Budget proposes \$1,096,000 from the Agriculture Account to purchase the Arvin facility.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal.

5. Fresno/Tulare Laboratory Consolidation and Replacement – Capital Outlay

Background. The California Department of Food and Agriculture (CDFA) has five laboratories in its California Animal Health and Food Safety Laboratory System (CAHFS). Three of the five laboratories are located in Turlock, Fresno, and Tulare, and provide testing services to thousands of animal-producing farms throughout the San Joaquin Valley. The CAHFS laboratories test samples for animal disease or food contamination so as to be able to efficiently quarantine or eradicate problems.

In 2001, the Accreditation Site Visit Team of the American Association of Veterinary Laboratory Diagnosticians evaluated the use and accessibility of CAHFS laboratories. The study concluded that more space was needed for immunology and molecular diagnostic areas. Also in 2001, the Department of General Services studied the CAHFS laboratories and concluded that there was need for laboratory facilities to be strategically located.

Currently, the laboratories in Turlock, Tulare, and Fresno are unable to meet current mandates and future needs due to severe space and bio-containment limitations, aged equipment, deficient electrical and airflow systems, and urban encroachment. The Fresno laboratory was built in 1950 and the Tulare laboratory was built in 1984.

Project. A new facility will be constructed that will consolidate the Tulare and Fresno laboratory facilities. The new facilities will have more space and will include diagnostic technologies and equipment. The new facility will be located in the southern San Joaquin Valley.

Governor's Budget. The Governor's Budget proposes \$2,515,000 from General Fund for the preliminary plans phase of the Fresno/Tulare Laboratory Consolidation and Replacement.

Total project cost for all phases is estimated at about \$47.5 million.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal.

Discussion Items

6. Deferred Maintenance and Equipment Replacement for the Chemistry Laboratory

Background. AB 1061, Chapter 613, Statutes of 2005, created the Analytical Laboratory Account within the Department of Food and Agriculture Fund. Funds deposited into the account are reimbursements for services rendered by the Center for Analytical Chemistry. The funds in the account are to pay for the services provided by the Center for Analytical Chemistry, laboratory equipment and replacement, modifications to existing facilities, and other uses that maintain the laboratory infrastructure.

Governor's Budget. The Governor's Budget proposes \$500,000 on-going from the Analytical Laboratory Account for laboratory maintenance and equipment.

Staff Analysis. The Department of Food and Agriculture provided staff with a list of maintenance that would be conducted with the funds. The list of identified projects is estimated to cost about \$2 million to complete. Since the funds requested can complete all of these projects in four years, the Legislature may wish to consider not making these funds part of the baseline.

Staff Recommendation. Staff recommends the Subcommittee make this two-year limited-term funding, since it is for building repairs.

7. Noxious Weed Management – Informational Item

Background. Weed Management Areas are cooperative, local organizations that bring together landowners, land managers, and other stakeholders for the purpose of combining their weed control efforts and expertise.

Governor's Budget. The Governor's Budget includes no funds for Weed Management Areas.

Staff Analysis. In the past, the state has provided money through the Weed Management Areas Program at CDFA to leverage local funding and in-kind donations at a rate of 3:1 to reduce invasive weeds. Invasive weeds are a serious problem statewide and their presence reduces the value of agricultural lands and the habitat values of lands for native species.

Staff Recommendation. Informational item, no action recommended at this time.

8. California Forest Products Commission – Informational Item

Background. The purpose of marketing programs is to provide agricultural producers and handlers an organizational structure, operating under government sanction, that allows them to solve production and marketing problems collectively that they could not address individually. Current marketing programs' activities include commodity promotion, research, and maintenance of quality standards. The commissions intend to provide a structure for solving problems and also provide a vehicle for collecting funds to support activities.

The California Forest Products Commission was established by legislation in 1990 to educate the public about California forests and the products that they provide. State law requires that the California Department of Food and Agriculture oversee all State marketing programs. The California Forest Products Commission is governed by a board made up of industry members.

Marketing programs are industry initiated and usually do not go into effect without approval by an industry vote. Since all industry members stand to gain from a marketing program's activities, all affected producers and/or handlers of each commodity are required to abide by the marketing program's statutory provisions and share the cost of funding the program's activities. Only companies producing five million board feet of logs, or more, annually, are mandated to pay for the California Forest Products Commission's activities.

The California Forest Products Commission's three main objectives through education, marketing, and research efforts are:

- To educate the public about environmental and consumer benefits of forest management.
- To assemble and publicize information about science-based forestry practices.
- To demonstrate and communicate the commitment of California's forest industry to balancing environmental and economic concerns.

Staff Analysis. California Forest Products Commission's enabling statute is found in Sections 77501 - 77666 of the Food and Agriculture Code. The California Forest Products Commission's activities and expenses are financed via a mandatory assessment paid by timberland owners and sawmill operators (tax on the industry). Food and Agriculture Code Section 77583 says: "the commission may promote the sale of forest products by *advertising and other promotional means*, including cost sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for forest products and to educate and instruct the public with respect to the use of forest products."

Based on information provided to the budget subcommittees of the Legislature in recent years, the bulk of the commission's money is spent not on marketing forest products, but on advocacy for the timber industry, much of which is focused on criticizing state regulatory programs and environmental requirements enacted by the Legislature. Most of California Forest Products Commission's budget is spent on contracts with PR firms for this purpose. Very little, if any, of the California Forest Products Commission's budget is actually spent on product promotion like other more conventional marketing boards under the California Department of Food and Agriculture. California Forest Products Commission isn't actually performing the statutory

mandate for which it was created. PR is a subsidiary statutory mission, but has become its primary function and activity.

California Forest Products Commission appears to function as a de facto advocacy and lobbying voice for timber interests instead of as a state marketing agency. Its budget isn't published as part of the California Department of Food and Agriculture budget. While there is no dispute that the timber interests are entitled to engage in public relations to advocate their interests, this role may be best suited for the private sector trade associations like the California Forestry Association and individual companies.

In view of the activities of the California Forest Products Commission, the Subcommittee may wish to consider placing a sunset on the commission statutes so that its activities may continue as a private sector endeavor.

Staff Recommendation. Staff recommends that the Subcommittee hold this item open to allow for public comment on the function and importance of the California Forest Products Commission. Staff further recommends that the Subcommittee direct the California Department of Food and Agriculture to provide the Subcommittee with the California Forest Products Commission's budget for 2005-06 and 2006-07 with detail showing the amount of funds spent on the Commission's various programs and activities.